REMARKS

Claims 1-3, 5-24, and 26-31 are pending in the present application. By this amendment, claims 1, 3, 5, 16-17, and 19 are amended, and claims 4 and 25 are canceled. Further, claims 26-31 are added. Applicants respectfully request reconsideration of the present claims in view of the following remarks.

I. Record of Telephone Interview with Examiner Ouellette

A telephonic interview occurred between the undersigned and Examiner Ouellette on February 26, 2004. The interview covered the rejection of claims 1, 16, 17, and 25 under 35 U.S.C. §103(a) over United States Patent No. 5,661,516 to Carles (hereinafter "Carles") in view of United States Publication No. 2002/0123928 to Eldering et al. (hereinafter "Eldering"). Examiner Ouellette and the undersigned discussed amending the claims to include additional description, which would be beneficial in overcoming the cited prior art references.

II. Prior Art Rejections

Claim Rejections Under 35 U.S.C. §103(a)

Claims 1, 6, 10-13, and 16-18, and 25 are rejected under 35 U.S.C. §103(a) as being unpatentable over Carles in view of Eldering. As noted above, claim 25 is canceled by this amendment. This rejection is respectfully traversed.

As amended, claim 1 recites that a method for utilizing information relating to a subscriber to identify the subscriber as a desirable subscriber comprises receiving viewing information associated with the subscriber, the viewing information indicating whether the subscriber viewed data from a source other than the plurality of programming and advertising sources; receiving a subscriber attribute, the subscriber attribute comprising data about the subscriber; merging said data from the plurality of programming and advertising sources, said viewing information, and said subscriber attribute to create a subscriber information data store; and analyzing said subscriber information data store to determine said subscriber's desirability in relation to a provider.

Carles does not disclose a method for utilizing information relating to a subscriber

to identify the subscriber as a desirable subscriber as recited by claim 1. On the contrary, Carles discloses a method for selectively distributing commercial messages to a plurality of subscriber terminals by accessing information embedded in the commercial messages, information stored in a household database related to individual subscriber households, and information contained in a commercial routing database about required routing of commercial messages to determine which commercials should go to which households. This is not analogous to the method of claim 1 because Carles fails to teach or suggest receiving viewing information associated with the subscriber that indicates whether the subscriber viewed data from a source other than a plurality of programming and advertising sources, and merging this viewing information of the subscriber with the information related to the subscriber households and the information embedded in the commercial messages to create a subscriber information data store.

The Office Action relies on the teaching of Eldering to allegedly overcome the above-identified deficiencies of Carles. However, like the teaching of Carles, the teaching of Eldering does not teach or suggest a method for utilizing information relating to a subscriber to identify the subscriber as a desirable subscriber comprising receiving viewing information associated with the subscriber, the viewing information indicating whether the subscriber viewed data from a source other than the plurality of programming and advertising sources. In contrast, Eldering teaches a method of matching advertisements to subscribers by correlating ad profiles with subscriber profiles, which include TV and Internet programming and advertising viewing characteristics of the subscriber, without suggesting that the subscriber profiles also indicate subscriber viewing characteristics of a source other than the programming and advertising TV and Internet sources. Therefore, like Carles, Eldering fails to teach or suggest the method recited by claim 1 of the present invention.

As amended, claim 16 recites that a computer-readable medium on which is encoded computer program code for utilizing information relating to a subscriber to identify the subscriber as desirable comprises computer program code for receiving viewing information associated with the subscriber, the viewing information indicating whether the subscriber viewed data from a source other than the plurality of programming and advertising sources; computer program code for receiving a subscriber

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attribute, the subscriber attribute comprising data about the subscriber; computer program code for merging said data from the plurality of programming and advertising sources, said viewing information, and said subscriber attribute to create a subscriber information data store; and computer program code for analyzing said subscriber information data store to determine said subscriber's desirability in relation to a provider.

Carles does not teach or suggest a computer-readable medium on which is encoded computer program code as recited by claim 16. Instead, Carles teaches a system for distributing commercial messages to a subscriber terminal on a network including accessing information embedded in the commercial messages, information stored in a household database related to individual subscriber households, and information contained in a commercial routing database about required routing of commercial messages to determine which commercials should go to which households. This is not analogous to the computer program code of claim 16 because Carles fails to teach or suggest receiving viewing information associated with the subscriber that indicates whether the subscriber viewed data from a source other than a plurality of programming and advertising sources, and merging this viewing information of the subscriber with the information related to the subscriber households and the information embedded in the commercial messages to create a subscriber information data store.

The Office Action relies on the teaching of Eldering to allegedly overcome the above-identified deficiencies of Carles. However, like the teaching of Carles, the teaching of Eldering does not teach or suggest a computer-readable medium on which is encoded computer program code for utilizing information relating to a subscriber to identify said subscriber as a desirable subscriber comprising computer program code for receiving viewing information associated with the subscriber, the viewing information indicating whether the subscriber viewed data from a source other than the plurality of programming and advertising sources. To the contrary, Eldering teaches a system of matching advertisements to subscribers by correlating ad profiles with subscriber profiles, which include TV and Internet programming and advertising viewing characteristics of the subscriber, without suggesting that the subscriber profiles also indicate subscriber viewing characteristics of a source other than the programming and

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advertising TV and Internet sources. Therefore, like Carles, Eldering fails to teach or suggest the computer-readable medium recited by claim 16 of the present invention.

As amended, claim 17 recites that a system for utilizing information related to a subscriber to identify the subscriber as a desirable subscriber comprises a subscriber-action database, wherein said subscriber-action database comprises viewing information associated with the subscriber, the viewing information indicating whether the subscriber viewed data from a source other than the plurality of programming and advertising sources; a subscriber attribute database, wherein said subscriber attribute database comprises an attribute of said subscriber, the attribute comprising data about the subscriber; a subscriber information database; a merge processor electronically connected to said content database, said subscriber-action database, said subscriber attribute database, and said subscriber information database, wherein said merge processor is operative to merge information from said content-access information content database, said subscriber-action database, and said subscriber attribute database to create data in said subscriber information database; and a data analyzer electronically connected to said subscriber information database.

Carles does not teach or suggest a system for utilizing information related to a subscriber to identify the subscriber as a desirable subscriber as recited by claim 17 of the present invention. In contrast, Carles discloses a library of commercial messages; a household database containing information about individual subscriber households such as gender, occupation, and number of automobiles; and a commercial routing database containing information about required routing of commercial messages. This is not analogous to the system of claim 17 because Carles fails to teach or suggest a subscriber-action database which includes viewing information associated with the subscriber that indicates whether the subscriber viewed data from a source other than the plurality of programming and advertising sources. Moreover, Carles fails to teach or suggest that the household database, the library of commercial messages, a subscriber-action database, and a subscriber information database are electronically connected to a merge processor operative to merge information from the household database, the library of commercial messages, and a subscriber-action database and store the merged information in the subscriber information database.

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The Office Action relies on the teaching of Eldering to allegedly overcome the above-identified deficiencies of Carles. However, like the teaching of Carles, the teaching of Eldering does not teach or suggest a system for utilizing information related to a subscriber to identify the subscriber as a desirable subscriber comprising a subscriber-action database, wherein said subscriber-action database comprises viewing information associated with the subscriber, the viewing information indicating whether the subscriber viewed data from a source other than the plurality of programming and advertising sources. Instead, Eldering teaches a system of matching advertisements to subscribers including a database for storing TV and Internet programming and advertising viewing characteristics of the subscriber, without suggesting that the database further stores subscriber's viewing characteristics of a source other than the programming and advertising TV and Internet sources. Therefore, like Carles, Eldering fails to teach or suggest the system recited by claim 17 of the present invention.

For at least these reasons, claims 1, 16, and 17 are allowable over Carles in view of Eldering. Since claims 6 and 10-13 depend from claim 1 and claim 18 depends from claim 17 and recite additional features, Applicants respectfully submit that the combined teaching of Carles and Eldering does make obvious Applicants' claimed invention as embodied in claims 6, 10-13, and 18 for at least these reasons. Accordingly, withdrawal of these rejections is respectfully requested.

Claim Rejections Under 35 U.S.C. §103(a)

Claims 2-5, 7-9, 14-15, and 19-24 are rejected under 35 U.S.C. §103(a) as being unpatentable over Carles in view of Eldering. As noted above, claim 4 is canceled by this amendment. This rejection is respectfully traversed.

For at least the reasons stated above, claims 1, 16, and 17 are allowable over Carles in view of Eldering. Since claims 2-3, 5, 7-9, and 14-15 depend from claim 1 and claims 19-24 depend from claim 17 and recite additional features, Applicants respectfully submit that the combined teaching of Carles and Eldering does not make obvious Applicants' claimed invention as embodied in claims 2-3, 5, 7-9, 14, 15, and 19-24.

III. New Claims 26-31:

New claims 26-31 recite further features of Applicants' claimed invention. Support for new claims 26-31 may be found at page 18, paragraphs 0050-51.

Applicants respectfully submit that new claims 26-31 are patentable over the art of record for at least the reasons given above.
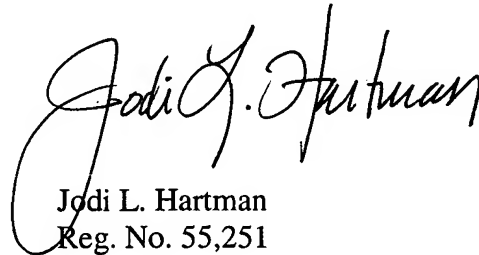
CONCLUSION

For at least these reasons, Applicants assert that the pending claims 1-3, 5-24, and 26-31 are in condition for allowance. The Applicants further assert that this response addresses each and every point of the final Office Action, and respectfully requests that the Examiner pass this application with claims 1-3, 5-24, and 26-31 to allowance. Should the Examiner have any questions, please contact Applicants' undersigned attorney at 404.954.5042.

Respectfully submitted,

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